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SENATE BILL 535

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Manny M. Aragon

AN ACT

RELATING TO EDUCATION; ENACTING THE STUDENT OPTIONS ACT;
PROVIDING ALTERNATIVE EDUCATIONAL OPTIONS FOR STUDENTS AND
DROPOUTS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE
PUBLIC SCHOOL CODE; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Public School Code is
enacted to read:

"[NEW MATERIAL] SHORT TITLE. --Sections 1 through 7 of this
act may be cited as the "Student Options Act"."

Section 2. A new section of the Public School Code is
enacted to read:

"[NEW MATERIAL] DEFINITIONS. --As used in the Student
Options Act:

A. "alternative educational institution" means a

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1 nonprofit corporation or for-profit corporation that provides
2 alternative educational opportunities for students;

3 B. "certificate" means a note issued to a
4 qualifying student or his parent or legal guardian through the
5 department of education and used to educate the student at a
6 public school, eligible private school, alternative educational
7 institution or community college;

8 C. "family income" means the income of a student's
9 parent or legal guardian who resides with the student at the
10 student's principal residence or the income of the student if
11 the student is living independently of his parent or legal
12 guardian;

13 D. "federal poverty guidelines" means the level of
14 income defining poverty by family size published annually in
15 the federal register by the United States department of health
16 and human services;

17 E. "local school district" means the school
18 district where a student resides;

19 F. "program" means the student options program; and

20 G. "student" means a person who is currently
21 attending a public school or a person who is between the ages
22 of fourteen and nineteen and has been disenrolled from a public
23 school for any reason or whose attendance or conduct indicates
24 that he may not meet graduation requirements as provided in
25 Section 22-2-8.4 NMSA 1978. "

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1 Section 3. A new section of the Public School Code is
2 enacted to read:

3 "[NEW MATERIAL] ADMINISTRATION OF THE PROGRAM - ADOPTING
4 RULES. --

5 A. The department of education shall establish and
6 bear the cost of administering the program.

7 B. The state board shall establish guidelines for
8 the implementation and operation of the program.

9 C. A private school shall not be required to
10 participate in the program.

11 D. No more than ten percent of the public school
12 population in a municipality with a population greater than
13 four hundred thousand according to the 2000 federal decennial
14 census shall receive certificates.

15 E. The department of education, in cooperation with
16 school districts, shall embark on a public awareness campaign
17 to inform the public about the program using the schools, other
18 government agencies and the media."

19 Section 4. A new section of the Public School Code is
20 enacted to read:

21 "[NEW MATERIAL] ELIGIBLE STUDENTS. --

22 A. A student who is a resident of a municipality in
23 New Mexico with a population greater than four hundred thousand
24 according to the 2000 federal decennial census and is at least
25 five years of age prior to 12:01 a.m. on September 1 of the

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1 school year or is a developmentally disabled three- or four-
2 year-old child is eligible to participate in the program if his
3 family income is at or below one hundred eighty-five percent of
4 the federal poverty guidelines.

5 B. A student who receives a certificate pursuant to
6 the Student Options Act shall participate in the testing
7 required by Subsection B of Section 22-1-6 NMSA 1978. The
8 testing shall be administered by the student's local school
9 district."

10 Section 5. A new section of the Public School Code is
11 enacted to read:

12 "[NEW MATERIAL] ELIGIBLE PRIVATE SCHOOLS, ALTERNATIVE
13 EDUCATIONAL INSTITUTIONS AND COMMUNITY COLLEGES. --

14 A. To be eligible to participate in the program, a
15 private school, alternative educational institution or
16 community college shall:

17 (1) register with the superintendent of a
18 school district as an eligible private school, alternative
19 educational institution or community college;

20 (2) maintain or develop anti-discrimination
21 policies to prevent discrimination on the basis of race, color,
22 national origin or ancestry; and

23 (3) develop policies that do not discriminate
24 against students who are recipients of certificates.

25 B. A private school, alternative educational

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1 institution or community college that accepts students who are
2 participants in the program shall not be required to comply
3 with rules that apply to public schools promulgated by either
4 the state board or the local school board. "

5 Section 6. A new section of the Public School Code is
6 enacted to read:

7 "[NEW MATERIAL] PROCEDURES FOR USING CERTIFICATES. --

8 A. A student or a parent or legal guardian may use
9 a certificate to enroll the student in a public school outside
10 of the student's school district or in an eligible private
11 school, alternative educational institution or community
12 college.

13 B. A school district shall adopt specific, written
14 standards for acceptance and rejection of certificates provided
15 for in the Student Options Act based on the capacity of class
16 size, grade level or school buildings.

17 C. Not earlier than March 1 and not later than July
18 1 prior to the beginning of a school year, a student or a
19 student's parent or legal guardian may apply to the
20 superintendent of the school district to participate in the
21 program. The superintendent may waive the application
22 deadline. The application shall contain the following
23 information:

- 24 (1) the student's name and address;
25 (2) the student's date of birth;

1 (3) the student's social security number;

2 (4) the student's school attendance zone;

3 (5) the student's grade level;

4 (6) the name and address of the student's

5 parent or legal guardian who is residing with the child, if

6 applicable;

7 (7) for a student or a parent or legal

8 guardian who resides with the student at the student's

9 principal residence, when required by the superintendent of the

10 school district, proof of income eligibility through copies of:

11 (a) the student's, parent's or legal

12 guardian's three most recent paycheck receipts for all

13 employment;

14 (b) a signed statement by the student's,

15 parent's or legal guardian's employer indicating his weekly,

16 biweekly or annual net earnings; or

17 (c) a signed statement by the student,

18 parent or legal guardian indicating he is self-employed and

19 that includes his annual net earnings, with a copy of his most

20 recent income tax return attached;

21 (8) whether the student was enrolled in a

22 class A, B, C or D special education program in the prior

23 school year or, for a child entering school for the first time,

24 whether the child has a diagnosed developmental disability or

25 learning disorder;

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1 (9) whether the student speaks a language
2 other than English as his principal language; and

3 (10) the name, tuition, fees and address of
4 the public school, private school, alternative educational
5 institution or ~~community~~ college to which the student intends
6 to apply.

7 D. No later than forty-five days after the
8 application is received, the superintendent of the school
9 district shall act on the application, notify the parent or
10 legal guardian of the value of the certificate and issue the
11 certificate if the application is approved.

12 E. The certificate shall be issued to the student
13 or in care of the student to his parent or legal guardian. The
14 certificate shall not be issued to the private school,
15 alternative educational institution, ~~community~~ college or
16 school district containing the public school that the student
17 chooses to attend.

18 F. The student and his parent or legal guardian
19 shall solely select the public school, private school,
20 alternative educational institution or ~~community~~ college that
21 the student chooses to attend. The state shall not decide
22 which school a student may attend. The state shall not advise
23 or influence the student's selection of a school.

24 G. Not later than August 15 of each year, each
25 superintendent of a school district shall report to the

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1 department of education the ages, schools, school attendance
2 zones and certificate values of students participating in the
3 program. "

4 Section 7. A new section of the Public School Code is
5 enacted to read:

6 "[NEW MATERIAL] CERTIFICATES--REDEMPTION. --

7 A. The value of a certificate shall be equal to the
8 amount of money generated by the student through the state
9 equalization guarantee distribution provided in the Public
10 School Finance Act and a proportionate per-student amount for
11 transportation expenses if the student attended a public school
12 in his school attendance zone. The value of the certificate
13 shall also include a proportionate allocation for the school
14 district's at-risk funding. The department of education shall
15 calculate the value of a student's certificate using the state
16 equalization guarantee distribution formula.

17 B. Subject to the value of the certificate set
18 forth in Subsection A of this section, the certificate
19 redemption value shall not exceed the tuition and fees charged
20 by a private school, alternative educational institution or
21 community college for students not participating in the program
22 unless the cost of educating the student presenting the
23 certificate is greater than the tuition and fees charged, in
24 which case the value of the certificate shall not exceed those
25 costs.

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1 C. Within fifteen days after receiving a
2 certificate, a private school, alternative educational
3 institution or ~~community~~ college shall, in writing, certify the
4 enrollment of the student named on the certificate and shall,
5 in writing, certify the amount of tuition and fees charged by
6 the private school to the department of education.

7 D. A private school, alternative educational
8 institution, ~~community~~ college or school district located
9 outside of the student's attendance zone shall redeem the value
10 of the certificate from the local school district in the
11 following installments:

12 (1) twenty-five percent of the value
13 determined in Subsection A of this section in September;

14 (2) twenty-five percent of the value
15 determined in Subsection A of this section in November;

16 (3) twenty-five percent of the value
17 determined in Subsection A of this section in February; and

18 (4) twenty-five percent of the value
19 determined in Subsection A of this section in May.

20 The installments shall be paid on the first day of the
21 applicable month.

22 E. If a private school, alternative educational
23 institution or ~~community~~ college disenrolls a student during
24 the school year or if the student is absent for ten consecutive
25 days without explanation, the private school, alternative

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1 educational institution or community college shall, in writing,
2 notify the school district and the certificate redemption shall
3 cease.

4 F. If a student, parent or legal guardian
5 disenrolls a student from a private school, alternative
6 educational institution or community college and enrolls the
7 student in another private school, alternative educational
8 institution or community college or in a public school during
9 the school year, the student, the parent or legal guardian
10 shall, in writing, notify the school district. Upon receipt of
11 proof of enrollment in another private school, alternative
12 educational institution or community college and certification
13 of tuition and fees charged by the new private school,
14 alternative educational institution or community college, the
15 remaining scholarship redemption installments shall be made to
16 the new private school, alternative educational institution or
17 community college. Upon proof of enrollment in a public
18 school, the remaining redemption installments shall be made to
19 the school district in which the public school is located."

20 Section 8. Section 22-1-6 NMSA 1978 (being Laws 1989,
21 Chapter 308, Section 1, as amended) is amended to read:

22 "22-1-6. ANNUAL SCHOOL DISTRICT ACCOUNTABILITY REPORT
23 REQUIRED. --

24 A. School districts are required to publish an
25 annual school district accountability report to provide

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1 district-wide data for the previous school year. The state
2 board shall establish the format for the accountability reports
3 and ensure that the relevant data is provided annually to
4 parents, students, educators, policymakers, legislators, the
5 governor and business and economic development organizations.

6 The department of education shall establish the following five
7 indices through which public school performance shall be
8 measured and reported to school districts:

9 (1) student achievement as measured by a
10 nationally norm-referenced test approved by the department of
11 education or through a performance-based instrument to measure
12 proficiency;

13 (2) school safety;

14 (3) the longitudinal dropout rate;

15 (4) attendance; and

16 (5) parent and ~~community~~ involvement.

17 The department of education shall establish the
18 methodology for measuring each of the five indices.

19 B. Effective July 1, 1999, school districts shall
20 annually administer a nationally norm-referenced test or a
21 standards-based assessment to all students in grades three
22 through nine enrolled in a public school [~~in grades three~~
23 ~~through nine~~] or who have received a certificate pursuant to
24 the Student Options Act. Only students with disabilities
25 deemed incapable of taking the test as determined on their

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1 individual educational programs shall be exempted from this
2 requirement. Students who have been assessed as non-English or
3 limited English proficient using state-approved language
4 assessments and meeting required thresholds shall be exempted
5 from this test and provided an alternative norm-referenced or
6 standards-based assessment in their primary language. School
7 districts shall report the following to the department of
8 education:

9 (1) the results of the norm-referenced test or
10 standards-based assessment;

11 (2) the number of enrolled students who did
12 not take the test, the school in which they are enrolled and
13 the reason for the exemption from the test; and

14 (3) separately and as part of the aggregate
15 report, the results of assessments of students enrolled in
16 special education class A, B, C and D programs who took the
17 test and the school in which they are enrolled, except in cases
18 where the number of students being reported is less than ten.

19 C. School districts shall set two-, four- and six-
20 year benchmarks in each of the five indices for each public
21 school. Local school boards may establish additional indices,
22 if reviewed by the department of education, through which to
23 measure the school district's performance in other areas.

24 D. The annual accountability report shall also
25 include the results of a survey of parents' views of the

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1 quality of their children's school. The survey shall be
2 conducted each year in time to include the results in the
3 annual accountability report. The survey shall compile the
4 results of a written questionnaire that shall be sent home with
5 the students to be given to their parents. The survey may be
6 completed anonymously. The survey shall be no more than one
7 page, shall be clearly and concisely written and shall include
8 not more than twenty questions that shall be answered with
9 options of a simple sliding scale ranging from "strongly agree"
10 to "strongly disagree" and shall include the optional response
11 "don't know". The survey shall also include a request for
12 optional written comments, which may be written on the back of
13 the questionnaire form. The questionnaire shall include
14 questions in the following areas:

- 15 (1) parent-teacher-school relationship and
16 communication;
- 17 (2) quality of educational and extracurricular
18 programs;
- 19 (3) instructional practices and techniques;
- 20 (4) resources;
- 21 (5) school personnel, including the school
22 principal; and
- 23 (6) parents' view of teaching staff
24 expectations for the students.

25 The state board shall develop no more than ten of the

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1 questions, which shall be reviewed by the legislative education
2 study committee prior to implementation. No more than five
3 questions shall be developed by the local school board and no
4 more than five questions shall be developed by the staffs of
5 each individual school site; provided that at least half of
6 those questions shall be developed by teachers rather than
7 administrators, in order to gather information that is specific
8 to the particular community surveyed. The questionnaires shall
9 indicate the public school site and shall be tabulated by the
10 department of education within thirty days of receipt and shall
11 be returned to the respective schools to be disseminated to all
12 parents.

13 E. The annual accountability report shall also
14 include a report of all federal funds distributed directly to
15 the school district or received by the district from the
16 department of education. For each distribution, the purpose
17 for which the money was received shall be stated with a
18 detailed accounting of the purposes for which the funds were
19 expended.

20 F. The annual accountability report for each school
21 district shall be adopted by the local school board, may be
22 published no later than November 15 of each year and may be
23 published at least once each school year in a newspaper of
24 general circulation in the county where the school district is
25 located. In publication, the report shall be titled "The

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1 School District Report Card" and disseminated in accordance
2 with guidelines established by the state board to ensure
3 effective communication with parents, students, educators,
4 local policymakers and business and community organizations.

5 G. The department of education shall create an
6 accountability data system through which data from each public
7 school and each school district may be compiled and reviewed.
8 The department of education shall provide the resources to
9 train school district personnel in the use of the
10 accountability data system.

11 H. The department of education shall verify data
12 submitted by the school districts.

13 I. The state board shall measure the performance of
14 every public school in New Mexico. Public schools achieving
15 the highest level of performance shall be eligible for
16 supplemental incentive funding. The state board shall
17 establish the corrective actions and interventions necessary
18 for public schools whose performance level is low.

19 J. The school district shall submit a copy of its
20 annual accountability report to the legislative finance
21 committee, the legislative education study committee and the
22 library of the legislative council service. "

23 Section 9. Section 22-8-2 NMSA 1978 (being Laws 1978,
24 Chapter 128, Section 3, as amended) is amended to read:

25 "22-8-2. DEFINITIONS. --As used in the Public School

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1 Finance Act:

2 A. "ADM" or "MEM" means membership;

3 B. "membership" means the total enrollment of
4 qualified students and all students who have received
5 certificates pursuant to the Student Options Act on the current
6 roll of a class or school on a specified day. The current roll
7 is established by the addition of original entries and
8 reentries minus withdrawals. Withdrawals of students, in
9 addition to students formally withdrawn from the public school,
10 include students absent from the public school for as many as
11 ten consecutive school days;

12 C. "basic program ADM" or "basic program MEM" means
13 the MEM of qualified students but excludes the full-time-
14 equivalent MEM in early childhood education and three- and
15 four-year-old students receiving special education services;

16 D. "cost differential factor" is the numerical
17 expression of the ratio of the cost of a particular segment of
18 the school program to the cost of the basic program in grades
19 four through six;

20 E. "department" or "division" means the state
21 department of public education;

22 F. "early childhood education ADM" or "early
23 childhood education MEM" means the full-time-equivalent MEM of
24 students attending approved early childhood education programs;

25 G. "full-time-equivalent ADM" or "full-time-

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1 equivalent MEM' is that membership calculated by applying to
2 the MEM in an approved public school program the ratio of the
3 number of hours per school day devoted to the program to six
4 hours or the number of hours per school week devoted to the
5 program to thirty hours;

6 H. "operating budget" means the annual financial
7 plan required to be submitted by a local school board;

8 I. "program cost" is the product of the total
9 number of program units to which a school district is entitled
10 multiplied by the dollar value per program unit established by
11 the legislature;

12 J. "program element" is that component of a public
13 school system to which a cost differential factor is applied to
14 determine the number of program units to which a school
15 district is entitled, including but not limited to MEM, full-
16 time-equivalent MEM, teacher, classroom or public school;

17 K. "program unit" is the product of the program
18 element multiplied by the applicable cost differential factor;

19 L. "public money" or "public funds" means all money
20 from public or private sources received by a local school board
21 or officer or employee of a local school board for public use;

22 M "qualified student" means a public school
23 student who:

24 (1) has not graduated from high school;

25 (2) is regularly enrolled in one-half or more

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1 of the minimum course requirements approved by the state board
2 for public school students; and

3 (3) is at least five years of age prior to
4 12:01 a.m. on September 1 of the school year; or

5 (4) is at least three years of age at any time
6 during the school year and is receiving special education
7 services pursuant to regulation of the state board; or

8 (5) has not reached his twenty-second birthday
9 on the first day of the school year and is receiving special
10 education services pursuant to regulation of the state board;
11 and

12 N. "state superintendent" means the superintendent
13 of public instruction or his designee. "

14 Section 10. DELAYED REPEAL.--Sections 1 through 7 of this
15 act are repealed effective January 1, 2006.

16 Section 11. EMERGENCY.--It is necessary for the public
17 peace, health and safety that this act take effect immediately.